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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

9762

FILE: B-193588

DATE: April 10, 1979

MATTER OF: Grace R. Woodring - Salary Rate Upon Reemployment

[Community Services Administration Employee Claim For Pay at Higher Rate]

DIGEST: Employee who had been previously employed by CSA at GS-5, step 6, requested and was given assurances that she would be reemployed at the GS-5, step 10, rate. Upon being reemployed employee discovered that her pay was set at GS-5, step 6, in accordance with requirement in 5 C.F.R. § 531.203(c). Employee's claim for pay at the higher rate is disallowed. Section 531.203(c) prohibits reemployment of employee in excess of highest previous rate and even though officials may have mislead employee, they acted beyond scope of their authority and cannot bind Government. Also, GAO has no authority to grant equitable relief in violation of a regulation.

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Ms. Grace R. Woodring, an employee of the Community Services Administration (CSA), Region IV, has requested a decision on her claim that she should be paid at the GS-5, step 10, rate instead of the GS-5, step 6, rate. Ms. Woodring was reemployed by CSA on August 13, 1978, at grade GS-5, step 6, at \$11,619 per annum, after a period of employment in the private sector. Ms. Woodring believes she is entitled to the pay for step 10 of GS-5 since on her application for employment, SF 171, she stated that the lowest pay she would accept with CSA was \$12,947 per annum. The salary of \$12,947 per annum was the GS-5, step 10, rate at that time.

The position for which Ms. Woodring applied was that of a Clerk (typing), GS-0301-05. Although the letter informing Ms. Woodring of her selection for that position did not indicate any step to which she would be entitled, she alleges that a Personnel Management Specialist in Region IV's Personnel Office assured her prior to her acceptance of the position that her requested salary level was "OK." Upon receipt of her first pay check from CSA, Ms. Woodring discovered that she had actually been employed and paid at the GS-5, step 6, rate.

Ms. Woodring states that due to her pressed financial situation she would never have left her real estate job to work

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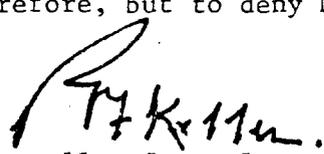
for CSA unless she was guaranteed the GS-5, step 10, rate. Her supervisor endorses Ms. Woodring's position and states that he hired her with the understanding that she would be paid at the GS-5, step 10, rate. Accordingly, Ms. Woodring claims that her rate of pay should be corrected to reflect this intent.

Ms. Woodring's salary was set at GS-5, step 6, by CSA because she had previously been employed with CSA at that rate. In this regard CSA states it relied on 5 C.F.R. § 531.203(c) (1978) to set her rate of pay. Section 531.203(c) provides in pertinent part:

"Position or appointment changes. Subject to §§ 531.204, 531.515, 539.201 of this chapter, and section 5334(a) of title 5, United States Code, when an employee is reemployed * * * the agency may pay him at any rate of his grade which does not exceed his highest previous rate * * *."
(Underscoring supplied.)

It is clear from the above-cited regulation, which was promulgated under the provisions of 5 U.S.C. § 5334(a) (1976), that there is no authority for Ms. Woodring to have been placed in a higher step than step 6 of GS-5 upon her reemployment with CSA. Any representations to the contrary made by her supervisor or by any other official at CSA were improper as they had no authority to make offers which, if accepted and implemented, would be in violation of the regulations. It is well established that the Government cannot be bound beyond the actual authority conferred upon its agents by statute or by regulations, and this is so even though the agent may have been unaware of the limitations of his authority. German Bank v. United States, 148 U.S. 573 (1893); Federal Crop Insurance v. Merrill, 332 U.S. 380 (1947).

Ms. Woodring asks that equitable relief be granted her. This Office, however, has no authority to provide equitable relief and grant her a higher rate of pay in violation of the cited regulation. We have no alternative, therefore, but to deny Ms. Woodring's claim for pay at a higher rate.


Deputy Comptroller General
of the United States